

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

X2Y ATTENUATORS, LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 11-218-SJM
)	
INTEL CORPORATION, APPLE INC., and)	Sean J. McLaughlin, District Judge
HEWLETT-PACKARD COMPANY,)	
)	
Defendants.)	

**DEFENDANTS INTEL CORPORATION’S, APPLE INC.’S, AND
HEWLETT-PACKARD COMPANY’S MOTION FOR
STAY OF PROCEEDINGS PURSUANT TO 28 U.S.C. § 1659(a)**

Defendants Intel Corporation, Apple Inc., and Hewlett-Packard Company (collectively, “Defendants”) respectfully request that the Court stay this case pursuant to 28 U.S.C. § 1659(a) until any determination of the United States International Trade Commission (“ITC”) becomes final in an investigation involving U.S. Patent No. 8,023,241 (the “’241 patent”), the same patent asserted by Plaintiff X2Y Attenuators, LLC in this case. Plaintiff previously commenced a separate case in this Court (No. 11-117) asserting that the Defendants infringe five other patents that are the subject of pending ITC Investigation No. 337-TA-781 (“781 investigation”). The ’241 patent has now been added to that same investigation. Pursuant to 28 U.S.C. § 1659(a), the Court has stayed Case No. 11-117, *see* Dkt. No. 7, and Defendants ask the Court to stay this case as well.

On September 22, 2011, Plaintiff commenced this case, asserting that Defendants infringe the ’241 patent. That same day, Plaintiff also filed a motion in the ITC seeking to amend its Complaint and to have the ’241 patent added to the 781 investigation. On October 14, 2011, Acting Chief Administrative Law Judge Bullock granted that motion.

Section 1659(a) provides:

(a) Stay. In a civil action involving parties that are also parties to a proceeding before the United States International Trade Commission under section 337 of the Tariff Act of 1930, at the request of a party to the civil action that is also a respondent in the proceeding before the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission, but only if such request is made within—

(1) 30 days after the party is named as a respondent in the proceeding before the Commission, or

(2) 30 days after the district court action is filed,

whichever is later.

28 U.S.C. § 1659(a). Thus, because the ITC investigation involves the same patent as this case, and each of the Defendants is both a defendant in this action and named as a respondent in the ITC investigation, Defendants request that, pursuant to 28 U.S.C. § 1659(a), the Court stay proceedings until any determination of the ITC becomes final.

Counsel for Defendants have conferred with counsel for Plaintiff, and Plaintiff does not oppose Defendants' motion to stay.

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Dated: October 21, 2011

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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of October, 2011, a true and correct copy of the within Motion was served upon counsel of record for plaintiff by United States first class mail, postage prepaid, and e-mail, addressed as follows:

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/s/ Robert D. Finkel